

1 19A NCAC 02E .0702 is amended as published in 28:21 NCR 2584 as follows:

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3 19A NCAC 02E .0702 SOLICITATION AND AWARD OF CONTRACT

4 (a) The department shall establish and maintain a "~~Register of Firms~~" "Directory of Transportation Firms" which
5 have the necessary expertise and experience and have expressed a desire to perform ~~for the department in~~
6 professional engineering or other kinds of professional or specialized services for the department in connection with
7 highway transportation construction or repair. Prequalification pursuant to ~~19A NCAC 02D .0801~~ 19A NCAC 02E
8 .0703 is ~~not~~ required for inclusion on the "~~Register~~" Directory or award of a contract under this Section.

9 (b) Upon authorization by the ~~Board~~ Secretary of Transportation for the DOT staff to use a professional/specialized
10 firm, a Selection Committee shall be established by the branch manager consisting of at least three members from
11 the DOT staff who are experienced in the type of services to be contracted. For contracts anticipated to exceed ~~ten~~
12 fifty thousand dollars ~~(\$10,000)~~ (\$50,000) solicitation for proposals shall be by published advertisement. In addition,
13 solicitation for interest may also be by direct mail to ~~several~~ all firms prequalified for the type of services to be
14 contracted and selected from the ~~register~~, Directory. North Carolina firms qualified to do the required work shall be
15 given priority consideration. Priority consideration is defined as when one or more proposals are equal in all other
16 aspects, additional consideration for award shall be given to a North Carolina firm. A North Carolina firm is a firm
17 which maintains an office in North Carolina which is permanently staffed and capable of performing a majority of
18 the work required.

19 (c) The firm(s) to be employed shall be selected for each project by the Selection Committee.

20 (d) For contracts having a total cost over ~~ten~~ fifty thousand dollars ~~(\$10,000)~~ (\$50,000) and for ~~amendments~~
21 supplemental agreements thereto, award shall be made by the Secretary of Transportation. ~~Board of Transportation~~
22 ~~after consultation with the Advisory Budget Commission.~~

23 (e) ~~Contract amendments that increase a contract cost to ten thousand dollars (\$10,000) or more require approvals~~
24 ~~as specified in Paragraph (d).~~ Supplemental agreements which increase a cost of a project to more than fifty
25 thousand dollars (\$50,000) require approval by the Secretary.

26 (f) In an emergency situation, these Rules may be waived by the Secretary of Transportation or the Secretary's
27 designee pursuant to G.S. 136-28.1(e). A qualified firm may be selected, negotiations conducted and a contract
28 executed by the Secretary of Transportation or the Secretary's designee as required to resolve the emergency
29 conditions.

30 (g) ~~A noncollusion certification shall be executed by prime contractors and lower tier participants in each~~
31 ~~transaction involving public funds. Transactions which require certifications from lower tier participants are:~~

32 (1) ~~Transactions between a prime contractor and a person other than for a procurement contract, for~~
33 ~~goods or services, regardless of type.~~

34 (2) ~~Procurement contracts for goods and services, between a prime contractor and a person, regardless~~
35 ~~of type, expected to equal or exceed the Federal small purchase threshold fixed at 10 U.S.C.~~
36 ~~2304(g) and U.S.C. 253(g) [currently twenty five thousand dollars (\$25,000)] under a prime~~
37 ~~contract; and~~

1 ~~(3) Procurement contracts for goods or services between a prime contractor and a person, regardless~~
2 ~~of the amount under which that person will have a substantive control over the transaction. Such~~
3 ~~include, but are not limited to, bid estimators and contract managers.~~
4 ~~The certifications for both the prime contractor and the lower tier participants shall be on a form furnished by the~~
5 ~~Department of Transportation to comply with Federal Highway Administration requirements, as published in 49~~
6 ~~C.F.R. Part 29. The prime contractor is responsible for obtaining the certifications from the lower tier participants~~
7 ~~and is responsible for keeping them as part of the contract records.~~

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9 *History Note: Authority G.S. 136-28.1(e) and (f); 143B-350(f) and (g);*
10 *Temporary Rule Eff. June 11, 1982 for a Period of 51 Days to Expire on August 1, 1982;*
11 *Eff. August 1, 1982;*
12 *Amended Eff. October 1, 2014; December 1, 2012; December 29, 1993; October 1, 1991; April 1,*
13 *1986; February 1, 1983.*